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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,967	11/03/2000	Jeff A. Josten	STL000039US1/1715P	5056

7590 03/10/2004  
SAWYER LAW GROUP LLP  
P.O. Box 51418  
Palo Alto, CA 94303

EXAMINER
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PANNALA, SATHYANARAYA R

ART UNIT	PAPER NUMBER
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2177

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/705,967

Applicant(s)

JOSTEN ET AL.

Examiner

Sathyanarayan Pannala

Art Unit

2177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,3,5,6,8,9,11,12,14,15,17,18 and 23-25 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

- 6) ☒ Claim(s) 2,3,5,6,8,9,11,12,14,15,17,18 and 23-25 is/are rejected.

- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. As per the Applicant's Amendment filed on 12/22/2003, added claims 23-25, amended claims 2-3, 5-6, 8-9, 11-12, 14-15, and 17-18 and canceled claims 1, 4, 7, 10, 13, 16 and 19-22. On the basis of this Office Action claims 2-3, 5-6, 8-9, 11-12, 14-15, 17-18 and 23-25 are pending.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/22/2003 has been entered.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 2-3, 5-6, 8-9, 11-12, 14-15, 17-18 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haderle et al. (US Patent 6,185,699) and in view of Watts et al. (US Patent 6,275,832).

5. As per independent claims 23-25, Haderle rendered by the following:

“determining that at least one computer system of the plurality of computer systems has failed” at Fig. 1, col. 5, lines 47-49;

“performing a restart operation on the failed system to free the retained locks using only shared processor resources determined to be necessary for performing the restart operation” at Fig. 1, col. 5, lines 53-57.

Haderle does not teach specifically retaining locks at the time of restarting the system after failure. However, Watts teaches the following:

“retaining a plurality of locks held by the failed system in response to the failure” at Fig. 3, col. 7, line 65 to col. 8, line 14.

Thus, it would have been obvious to one ordinarily skilled in the art at the time of the invention to incorporate computer-programming instructions to convert nonstandard

database record to a standard database record. Haderle and Watts are combined as they teach recovery techniques from database failure and to retain of locks during database restarting time. In order to undo a transaction backout from system failure retained lock information is useful.

6. As per dependent claims 2, 8, 14, Watts teaches "allowing another system of the plurality of systems to retain the plurality of locks of the at least one system" at Fig. 3, col. 7, line 65 to col. 8, line 14.

7. As per dependent claims 3, 9, 15, Haderle teaches the following:

"allowing another system of the plurality of systems to restart the at least one system" at Fig. 1, col. 5, lines 53-54;

"allowing the at least one system to terminate in a normal fashion" at Fig. 2, col. 6, lines 49-54.

Watts teaches the following:

"recovering data being protected by the retained locks of the at least one system utilizing only the shared processor resources of the another system determined to be necessary for performing the restart operation" at Fig. 3, col. 7, line 65 to col. 8, line 14.

8. As per dependent claims 5, 11, 17, 22, Haderle teaches the following:

"providing a request to restart the at least one system" at Fig. 1, col. 5, lines 53-54;

"allowing the another system to detect the request" at Fig. 2, col. 6, lines 49-52;

“allowing the another system to restart the at least one system based on the request utilizing only the shared processor resources determined to be necessary for performing the restart operation” at Fig. 1, col. 5, lines 53-60.

9. As per dependent claims 6, 12, 18, Watts teaches “the plurality of locks comprise a plurality of data locks” (Examiner interprets locks are pertaining to data since they are pertaining to data transactions) at Fig. 3, col. 8, lines 6-13.

### ***Response to Arguments***

10. Applicants’ arguments filed on 12/22/2003 have been fully considered but they are not persuasive as stated below:

First, the applicant stated as “Therefore, for the above identified reasons, the present invention as recited in independent claims 23-25 is neither taught nor suggested by Haderle in view of Watts.”


In response to the Applicants’ argument, the prior art by Haderle and Watts still teaches all claims its limitations. For information, Haderle teaches restarting the system automatically in response to the failure, or waits for a user command to restart, the recovery mechanism makes an analysis pass through the log from the last check-point forward (at Fig. 1, col. 5, lines 54-60). Whereas Watts teaches retaining locks to recover the system from failure (at Fig. 3, col. 7, line 65 to col. 8, line 14).

**Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sathyanarayan Pannala whose telephone number is (703) 305-3390. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (703) 305-9790. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sathyanarayan Pannala  
Examiner  
Art Unit 2177

srp  
March 5, 2004

  
GRETA ROBINSON  
PRIMARY EXAMINER